

Introduced by Senator Migden
(Principal coauthor: Assembly Member Nunez)

February 9, 2005

An act to add Section 106 to the Military and Veterans Code, relating to the state militia.

LEGISLATIVE COUNSEL'S DIGEST

SB 181, as introduced, Migden. State militia: applicable law.

Existing law establishes the active militia, which includes the National Guard, the State Military Reserve, and the Naval Militia. Existing law specifies that the Uniform Code of Military Justice and the United States Manual for Courts-Martial apply to the active militia.

This bill would provide that specified provisions of the Uniform Code of Military Justice and the United States Manual for Courts-Martial do not apply to a qualified person, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 act to provide all qualified persons with the opportunity to
- 3 perform military duty in the service of the State of California
- 4 without discrimination on the basis of race, color, ethnicity,
- 5 national origin, gender, or sexual orientation.
- 6 SEC. 2. Section 106 is added to the Military and Veterans
- 7 Code, to read:
- 8 106. (a) Notwithstanding any other provision of law, the
- 9 following provisions do not apply to a qualified person:

1 (1) Article 125 of the Uniform Code of Military Justice (10
2 U.S.C. Sec. 925) and the rules and regulations adopted
3 thereunder, when the behavior described in that provision is
4 private and consensual between adults.

5 (2) Paragraph 90 of Article 134 of the Manual for
6 Courts–Martial, United States (2002 edition), and any
7 amendments thereto, when the behavior described in that
8 provision is private and consensual and between adults.

9 (b) For purposes of this section, “qualified person” means any
10 of the following persons who have retired from federal military
11 service or have otherwise lost federal recognition of their rank
12 and to whom Title 32 of the United States Code does not apply:

13 (1) A member of the State Military Reserve.

14 (2) A member of the Naval Militia.

15 (3) A person on state active duty.